



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

DIVISION OF PROFESSIONAL REGULATION

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MEETING MINUTES:	BOARD OF PROFESSIONAL LAND SURVEYORS
DATE AND TIME:	Thursday, April 15, 2010 at 8:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , second floor of the Cannon Building
APPROVED:	August 24, 2010

MEMBERS PRESENT

Steven Sellers, Professional Member
Michael Szymanski, Professional Member
Laurence McBride, Professional Member
James Bielicki, Jr., Professional Member
Mary Chvostal, Public Member
Frank Szczuka, Public Member

DIVISION STAFF

Frederick Schranck, Deputy Attorney General
Renee' Holt, Administrative Specialist II

MEMBERS ABSENT

PUBLIC

John Johnson, DAS
Douglas Loewer
Kelly Katz

CALL TO ORDER

Mr. Sellers called the meeting to order at 8:50 a.m.

REVIEW AND APPROVAL OF MINUTES

Mr. Sellers reordered the agenda to have the review of the minutes at the end of the agenda as item 6.4 before Other Business before the Board.

The Board reviewed the minutes from the February 18, 2010 meeting. Mr. Szymanski made a motion to approve the minutes contingent upon editing changes being completed. Ms. Chvostal seconded the motion. The motion was approved by an affirmative vote of Mr. Szymanski, Mr. Szczuka, Mr. Bielicki, and Ms. Chvostal. Mr. Sellers and Mr. McBride abstained. Mr. Sellers tabled the review of the minutes from December 17, 2009 and January 21, 2010.

Mr. Sellers announced all hearings were continued until the May 20, 2010 meeting.

UNFINISHED BUSINESS

Review of Application for Licensure – Ratify Decisions – Due to the cancellation of the March 2010 meeting, Mr. Sellers reviewed the pending applications to allow those approved to meet the deadline to register and take the April 2010 Drainage and Jurisprudence Examination. Mr. Sellers reported his review of the applications.

Terrence Blomquist (Tabled 2/18/10) – Mr. Sellers reported the application was recommended to be tabled due to issues getting scores reported from Maryland and receipt of one additional reference. Mr. Szymanski made a motion, seconded by Mr. McBride to table the application. The motion was unanimously approved.

David Dworek (Tabled 2/18/10) – Mr. Sellers reviewed the criminal history and reported he consulted with Mr. Schranck. Mr. Schranck reported the crimes were present on the Substantially Related Crimes list. Mr. Schranck advised the Board that statute requires a hearing to make a final determination regarding incidents reported on the criminal history. Mr. Sellers clarified there is a Rule that allows the Board to take the age of the offense into account. Mr. Schranck advised the Board could determine to waive considering the offense or move forward with considering the offense when determining eligibility for licensure. Mr. Schranck reported Mr. Dworek retained counsel and requested a hearing before the Board. Mr. Schranck confirmed the hearing was scheduled for May 20, 2010. Mr. Szymanski made a motion, seconded by Mr. McBride to propose to deny the application for licensure. The motion was unanimously approved.

Timothy Miller (Tabled 2/18/10) – Mr. Sellers reported the reason the application was tabled due to answering "Yes" to question 14. Mr. Miller provided an email explanation for why he responded "Yes" to question 14. Mr. Schranck advised Mr. Miller's response was adequate. After further discussion, Mr. Szymanski made a motion, seconded by Mr. McBride to table the application and request a detailed criminal history background report. The motion was unanimously approved.

Review of draft Survey Intern Application

Mr. Sellers explained Ms. Holt was researching the status of the draft application within the Division of Professional Regulation. Mr. Schranck advised the majority of the concern was administratively formatting the application to conform to standard formatting for all applications. Mr. Sellers tabled the review to allow Ms. Holt to determine the status.

Administrative Processing of Certificate of Authorization Applications

Ms. Holt explained the purpose of the discussion. Ms. Holt clarified the Board had considered at the February meeting to allow the Division of Professional Regulation staff to perform the review and issuance of the Certificates and then have the Board ratify the issuance of the Certificates. Mr. Sellers relayed the effectiveness of having documents reviewed throughout the month by a designated person via secured website. Mr. Szymanski clarified the discussion of the February meeting which resulted in the consideration of delegating the review and issuance of the Certificate of Authorization applications to the Division due to the nature of the verification necessary at the Division level; i.e. verifying active license status, Delaware Licensure, etc. Mr. Schranck advised the Board of the considerations necessary regarding the Certificate of Authorization application and review. Mr. Schranck advised the Board to allow the Division staff to do the review and issuance of the Certificate of Authorization and if upon review, the Division found a company had an issue on the application then either a hearing would be initiated or the application would be brought before the Board for further review.

After further discussion and counsel by Mr. Schranck, the Board formulated a motion.

Ms. Chvostal made a motion, seconded by Mr. McBride to have the Division of Professional Regulation do the review and issuance of Certificate of Authorizations with the Board ratifying the issuance and to have the Division submit to the Board for review all applications that appear to have an issue with compliance. The motion was unanimously approved.

Mr. Szczuka made a motion, seconded by Ms. Chvostal to have the Division Staff work with the Deputy Attorney General assigned to the Board to confirm the adequacy of the application and questions used in it to make sure there is compliance. The motion was unanimously approved.

Selection of Credentialing and PDH Review Committees

Mr. Szymanski stated the purpose of the discussion was to designate a professional member to review the applications for PDH approval and have another Board member be designated to review the applications. Mr. Szymanski explained the Board needed to make a motion to assign the members for the committees and also the alternates. Mr. Szymanski made a motion to have Mr. Bielicki assigned to the Credentialing Committee. Mr. Sellers seconded the motion. The motion was unanimously approved. Mr. Szymanski volunteered to review the PDH applications.

Compliance Review

The Board reviewed the request for approval of courses submitted by Stephen Kilchenstein to meet the requirements of the Board Order. Mr. Szymanski made a motion to accept 8 PDHs requested for Statutory Laws of Maryland – The Red Book course from December 2009 and allow him to apply the course toward shortfall and also to obtain evidence from College of Baltimore County Boundary Survey Law REA for the number of hours of the course and submit the course description for consideration. The motion was seconded by Ms. Chvostal. The motion was unanimously approved.

The Board reviewed the documents supplied by James Luff for compliance with the Board Order. The Board discussed the information supplied. Mr. Johnson of the Delaware Association of Surveyors was recognized. Mr. Johnson stated the course taught by Mr. Demma was approved for previous licensees to meet the ethics requirements. After further discussion, Mr. Szymanski made a motion to table the review until the administrative assistant could research documents from the Bruce Flora hearing that could confirm the Board's approval of the course, seconded by Ms. Chvostal. The motion was unanimously approved.

NEW BUSINESS

Courses for Continuing Education Approval

2010 ACSM Annual Conference and Technology Exhibition – April 24 – 28, 2010 – requesting review of 36 courses for various PDH credit hours. Mr. Szymanski made a motion, seconded by Ms. Chvostal to approve all courses offered during the Annual Conference with the courses below approved for ethics and professionalism. The motion was unanimously approved.

Situational Ethics for the Surveyor approved for 4 PDHs

The 4 Ps – Professionalism, Public, Perception, and Profit approved for 4 PDHs

Ethical Review of Maxim of Juris Prudence approved for 4 PDHs

The Board reviewed the application for Continuing Education Approval from Michael Ray for the 2010 Maryland Society of Surveyor courses *Contracts for Land Surveyors* for 4 PDHs and *Land Surveying Ethics and Professionalism* for 4 PDHs and ethics designation. Mr. Bielicki made a motion to approve the whole Maryland Society 2010 conference including courses identified for ethics, seconded by Mr. McBride. The motion was unanimously approved.

The Board reviewed the application for Continuing Education Approval from the Delaware Association of Surveyors for the course *Surveyor's Issues & Answers: Ethical Business Practices* requesting 2 PDHs and

ethics designation. Ms. Chvostal made a motion, seconded by Mr. McBride to approve the course for 2 PDHs and that the course meets the requirements for ethics and professionalism. The motion was approved with a majority voting yes and Mr. Szymanski abstaining.

The Board reviewed the applications for Continuing Education Approval from Douglas Loewer. Mr. Loewer addressed the Board and indicated all the courses submitted were the Maryland Society of Surveyors conference courses previously approved by the Board. The courses listed below were approved for the identified PDHs and ethics designation.

Controlling an "Accurate & Reliable" Map...from the ground up for 4 PDHs
ABC's of CAD Software for 4 PDHs
Contracts for Land Surveyors for 4 PDHs
Boundary Surveyor for 4 PDHs
Land Surveying Ethics & Professionalism for 4 PDHs and ethics designation
The Pincushion Effect on the Multiple Monument Dilemma for 4 PDHs
New Developments for OPUS for 4 PDHs

Review of Application for Licensure by Reciprocity

The Board reviewed the application of Robert Vallee. Mr. Szymanski made a motion to approve Mr. Vallee to sit for the Drainage and Jurisprudence examination, seconded by Ms. Chvostal. The motion was unanimously approved.

The Board reviewed the application of Joseph Swain. Mr. McBride made a motion to approve Mr. Swain to sit for the Drainage and Jurisprudence examination, seconded Ms. Chvostal. The motion was unanimously approved.

The Board reviewed the application of Thomas B Hendricks. Mr. Bielicki made a motion, seconded by Ms. Chvostal to approve Thomas B. Hendricks to sit for the Drainage and Jurisprudence examination. The motion was unanimously approved.

Review of Licensure by Examination

The Board reviewed the application of Jeffrey Elkins. Mr. Bielicki made a motion to approve Jeffrey Elkins to sit for the Fundamentals, Principles and Practice, Drainage, & Jurisprudence examinations, seconded by Mr. McBride. The motion was unanimously approved.

The Board reviewed the application of Jeffrey Whitmore. Ms. Chvostal made a motion, seconded by Mr. McBride to approve Jeffrey Whitmore to sit for the Fundamentals, Principles and Practice, Drainage, and Jurisprudence examinations. The motion was approved with a majority of the Board voting yes with Mr. Szymanski abstaining.

Review of Land Surveying Certificate of Authorization Application

The Board reviewed the application for Stephens Environmental Consulting. Mr. Szymanski made a motion, seconded by Ms. Chvostal to send the application back to the Division to get clarification as to Mr. Early's position with the company. The motion was unanimously approved.

The Board reviewed the application of Birdsall Services Group (addition of PLS request) – S8-0000015 – Mr. Sellers made a motion to approve Mr. Alexander be added as Professional in Charge, seconded by Ms. Chvostal. Mr. Szymanski confirmed Birdsall Services has a current Certificate of Authorization. The motion carried with a majority voting yes and Mr. Szczuka abstaining.

The Board reviewed the application of Van Demark & Lynch Inc. Mr. Szymanski made a motion to approve the application, seconded by Mr. McBride. The motion was unanimously approved.

The Board reviewed the application for Temple – Sellers Inc. Mr. Szymanski made a motion, seconded by Mr. McBride to approve the application. The motion carried with majority voting yes and Mr. Sellers abstaining.

The Board reviewed the correspondence submitted by Mr. Alexander regarding CMX Inc (Correspondence). Mr. Szymanski made a motion to have the Division contact CMX Inc and notify them that they no longer have a PLS on staff and that they must submit a new licensee's name within 30

days or the Certificate of Authorization would be revoked. The motion was seconded by Mr. McBride. The motion was unanimously approved.

The Board reviewed the application for Morris & Ritchie Assoc. Mr. Szczuka made a motion, seconded by McBride to approve the application. The motion was unanimously approved.

The Board reviewed the application for Whitman Requardt & Associates. Mr. Bielicki made a motion, seconded by Mr. McBride to approve the application. The motion was unanimously approved.

Complaint Assignments

Complaint 05-01-10 and 05-02-10 were assigned to Mr. McBride.

Mr. Szymanski clarified the Board had decided that anonymous complaints should be assigned to Mr. McBride and all other complaints could be assigned to any Board member.

Complaint Status

Ms. Holt reported the status of the complaints below:

Complaint 05-02-09 sent to the Attorney General's office 03/18/10

Complaint 05-03-09 sent to the Attorney General's office 03/18/10

Complaint 05-06-09 sent to the Attorney General's office 01/28/10

Hearings/Consent Agreements/Board Orders

The Board signed the order for Robert Worthington. Ms. Holt advised the Board of the upcoming hearing schedule below:

Bruce McKenna	May 20, 2010	9:00 a.m.
David Dworek	May 20, 2010	10:00 a.m.
William Wichess	May 20, 2010	10:30 a.m. (request for extension)
Thomas Ertle	May 20, 2010	11:00 a.m.
Heath Dumack	May 20, 2010	11:30 a.m.

Closed Complaints – None

Wall Certificates

Mr. Szczuka signed the wall certificate for Kenneth Lee Evans Jr.

Correspondence

Mr. Sellers notified the Board that the correspondence from the ACSM pertained to the Continuing Education Approval Application submitted by the American Congress on Surveying and Mapping (ACSM)

Mr. Sellers provided the written correspondence from Douglas Loewer to Mr. Schranck. Mr. Schranck addressed Mr. Loewer and stated he would address Mr. Loewer's correspondence after he had the opportunity to review the documents. Mr. Loewer requested all Board meetings be video taped to ensure accuracy. Mr. Schranck advised Mr. Loewer the law required meeting minutes to be record and that Ms. Holt was recording the meeting via written minutes. Mr. Loewer expressed his desire to not be misquoted and commented he believed the Board did not wish to be misquoted and therefore he was requesting the meetings be video taped. Mr. Schranck advised Mr. Loewer the Board received the request.

The Board recessed the meeting at 11:03 a.m.

Other Business before the Board (for discussion only)

Mr. Szymanski gave a summary report to the Board of the events occurring at the NCEES Zone meeting, Mr. Szymanski reported the topics of discussion were Computer Based Testing (CBT), Audit of the State examination, Land Surveyor Designations (LS, PS, PLS, RLS), Continuing Education, Statute/Regulation

Changes in Other States (Complete and Pending), and General Comments.

PUBLIC COMMENT

Mr. Loewer addressed the Board. Mr. Loewer expressed he felt the Board was argumentative, belittling, and antagonistic. Mr. Loewer expressed the attitude of the Board reflects upon the surveyor community and stated he was ashamed how the attorneys at the February meeting were treated. Mr. Loewer felt the Board took too long to address the public due to the length of time it took the Board to conduct business. Mr. Loewer stated the attorneys present were mistreated when they were only there to offer information to educate the Board on the practices being exercised.

Mr. Loewer stated he felt the State did a great disservice by codifying the mortgage surveys and felt there should only be boundary surveys.

Mr. Loewer expressed his opinion regarding the treatment of the public, and providing the proper respect to the licensees and public. Mr. Loewer addressed suggestions regarding the listing of approved PDH courses and revision of the application for PDH approval. Mr. Loewer expressed concern with the requirement of the Board to review "detailed course schedule" as it is different for educational institutions and other providers. Mr. Loewer suggested the Board list the terms of service on the webpage under the Board Member listing. Mr. Loewer requested the 2007 and 2009 approved course list be put back on the website. Mr. Loewer expressed concern that the 2011 continuing education list was not updated and should be reorganized to allow licensees to find approved courses in advance of the offering date. Mr. Loewer also requested courses be approved and they not be required to resubmit the course unless the course changed.

Mr. Loewer expressed there was a bias with the audit. The Board expressed there was no bias when the audit was processed. Mr. Szczuka and Mr. Szymanski stated the licensees were responsible for knowing the laws and rules and regulations of the State.

Mr. Szczuka stated it was the licensee's responsibility to follow the rules and find the courses to meet the licensing requirements.

Mr. Loewer requested the Board adopt and follow Robert's Rules of Order. Mr. Loewer pointed out discrepancies listed on the Board's website.

Mr. Schranck clarified the Board composition discrepancy was being addressed in the current legislative session and the Governor's office was aware of the issue.

Mr. Loewer expressed he was considered a crusader and finds issues that need to be addressed and works to try to get them resolved. Mr. Loewer expressed he felt there was favoritism and the Board did not get the information out to the out of state licensees.

The Board thanked Mr. Loewer for his comments.

Mr. Johnson requested information on where to find copies of the proposed revisions for the MIP regulations. Mr. Schranck requested Ms. Holt email the information from the Register of Regulations.

Mr. Johnson thanked Ms. Holt on behalf of the DAS for her assistance in getting their course approval documents presented to the Board.

Mr. Katz requested permission to link the webpage with the proposed changes to the DAS website.

Ms. Holt provided a checklist to the board members to assist them with the review of future applications.

NEXT MEETING

The next meeting will be May 20, 2010 at 8:30 a.m. in Conference Room A, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware

ADJOURNMENT

There being no further business, Mr. Szymanski made a motion, seconded by Ms. Chvostal to adjourn the meeting at 1:01 p.m. The motion unanimously carried.

Respectfully Submitted,

A handwritten signature in black ink that reads "Renee' M. Holt". The signature is written in a cursive, flowing style.

Renee' M. Holt
Administrative Specialist